



11-22-06

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**IN THE
UNITED STATES
PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: Denison, et al.
CASE: MET-041424CO04
SERIAL NO.: 10/807,936
FILING DATE: March 24, 2004
FOR: ELECTRONIC ACCESS
CONTROL DEVICE

COMMUNICATION
IN RESPONSE TO
NOTICE OF NON-
COMPLIANT APPEAL
BRIEF

Mail Stop Amendment
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION OF:
Art Unit 2635
EXAMINER:
Brian A. Zimmerman

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Dear Examiner:

This is in response to the Notice of Non-Compliant Appeal Brief (37 C.F.R. 41.37) mailed September 21, 2006. In the Notice, it was stated that the Appellant's Appeal Brief was defective because it did not contain:

1. An Evidence Appendix and a Related Proceedings Appendix wherein;
2. The Evidence Appendix includes copies of evidence or and indication of "None";
and,
3. The Related Proceedings Appendix includes copies of decisions by court or Board of Appeals or and indication of "None."

The Appellant respectfully asserts that the Notice was improperly issued. As specifically stated in MPEP 1205.03 an "examiner should not require a corrected brief for minor non-compliance in an appeal brief." One of the examples of minor non-compliance listed in MPEP 1205.03 is where "the evidence appendix and related proceedings appendix are missing, but the

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record is clear that there is no evidence submitted and no related proceedings listed in the related appeals and interference section..."

Here, the guidance provided by MPEP 1205.03 was clearly overlooked. Nevertheless, in a good faith effort to move this appeal forward, Applicant encloses an amended brief, in triplicate with an evidence appendix and related proceedings appendix having an indication of "None."

Appellant encloses herewith a check in the amount of \$60.00 for a one month extension of time under 37 CFR 1.136. If any additional charges or fees must be paid in connection with the following communication, they may be paid out of our Deposit Account No. 50-0545.

Respectfully Submitted,



Dated: November 21, 2006

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CERTIFICATE OF MAILING BY EXPRESS MAIL
Express Mail Mailing Label No. EV 818256391 US
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I hereby certify that this correspondence is being deposited with the United States Postal Service, Express Mail Post Office to Addressee service under 37 C.F.R. 1.10 in an envelope addressed to Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 21, 2006.


Gerianne M. Flannery